

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION

Jerome Long,

Petitioner,

v.

Leroy Cartledge, Warden of
McCormick Correctional Institution,

Respondent.

C/A No. 6:11-0003-TMC

OPINION & ORDER

Petitioner, an inmate proceeding *pro se*, filed this petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254.¹ In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., all pre-trial proceedings were referred to a Magistrate Judge. On January 19, 2011, Magistrate Judge Kevin F. McDonald issued a Report and Recommendation ("Report") recommending the petition be dismissed without prejudice and without requiring Respondent to file an answer or return and that the District Court deny a Certificate of Appealability. (Dkt. # 11). The Magistrate Judge provided Petitioner a notice advising him of his right to file objections to the Report. (Dkt. # 11 at 6). Petitioner filed objections to the Magistrate Judge's Report on January 28, 2011. (Dkt. # 13).

The court is charged with making a *de novo* determination of those portions of the Report to which specific objection is made and the court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge, or recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1). The Report

¹ Petitioner submitted his Petition on a Section 2241 form *for use by federal prisoners*, but it is clear that Petitioner is seeking relief available only under 28 U.S.C. § 2254 as set forth in the Report and Recommendation.

sets forth in detail the relevant facts and standards of law on this matter, and the court incorporates such without a recitation.

The Magistrate Judge recommended the petition be dismissed because of successive filings of § 2254 petitions by the Petitioner and that the Petitioner failed to obtain leave (*i.e.*, written permission) from the United States Court of Appeals for the Fourth Circuit pursuant to 28 U.S.C. § 2244 (b)(3). The Court has carefully reviewed the Petitioner's objections, but finds them to be without merit.

After a thorough review of the Report and the record in this case pursuant to the standard set forth above, the Court finds Petitioner's objections are without merit. Accordingly, the court adopts the Report and incorporates it herein. It is therefore **ORDERED** that the above-captioned case is **DISMISSED** without prejudice and without requiring Respondent to file an answer or return.

To the extent that Petitioner requests a certificate of appealability from this Court, that certificate is **DENIED**.

IT IS SO ORDERED.

s/Timothy M. Cain
United States District Judge

December 9, 2011
Greenville, South Carolina